

**AFFIDAVIT OF MARK LOCKETT**

I, Mark Lockett, having been duly sworn under oath, state as follows:

1. I am over the age of 18 and am competent to make this Affidavit.
2. The statements contained herein are true and correct.
3. I have been a citizen and resident of the State of Arizona since 2002.
4. I have not resided at 13045 North Woosman, Oro Valley, Arizona 85755 since May 2010.
5. On September 1, 2011, my residence and domicile was 1301 W. Lambert Lane Apt. 2203, Oro Valley, AZ 85737.
6. On November 29, 2011, my residence and domicile was 1301 W. Lambert Lane Apt. 2203, Oro Valley, AZ 85737.
7. I moved from 1301 W. Lambert Lane Apt. 2203, Oro Valley, AZ 85737 on or around December 1, 2011 to an apartment located at 11740 North 93rd Place, Scottsdale, Arizona 85260.
8. My last day residing at 1301 W. Lambert Lane Apt. 2203, Oro Valley, AZ 85737 was on or around December 1, 2011.
9. The apartment located at 1301 W. Lambert Lane Apt. 2203, Oro Valley, AZ 85737 was vacant after December 1, 2011.
10. Since December 1, 2011, my domicile and residence has been 11740 North 93rd Place, Scottsdale, Arizona 85260.
11. No one resided in or occupied the apartment located at 1301 W. Lambert Lane Apt. 2203, Oro Valley, AZ 85737 on December 14, 2011.



12. On January 25, 2012, I returned to the apartment located at 1301 W. Lambert Lane Apt. 2203, Oro Valley, AZ 85737 in order to pick up some belongings.

13. January 25, 2012 was my first visit to the apartment located at 1301 W. Lambert Lane Apt. 2203, Oro Valley, AZ 85737 since December 1, 2011.

14. Prior to January 25, 2012, I had no prior knowledge of a lawsuit filed against me.

15. Upon arriving at the 1301 W. Lambert Lane Apt. 2203, Oro Valley, AZ 85737 apartment on January 25, 2012, I discovered folded-up papers with my name on them which had been stuck in the outside door. The papers included the Summons and Complaint of the lawsuit filed against me in Rio Arriba County, New Mexico, Case No. D-117-CV-2011-00573.

16. I was never personally served with the Summons and Complaint.

FURTHER AFFIANT SAYETH NOT.



MARK LOCKETT

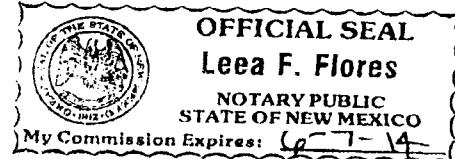
STATE OF New Mexico )  
COUNTY OF Otero ) SS.  
                        )

SUBSCRIBED, SWORN TO, and ACKNOWLEDGED, Mark Lockett personally appearing before me on this 17<sup>th</sup> day of February, 2012.

  
\_\_\_\_\_  
Leea F. Flores  
Notary Public

My Commission Expires:

June 7, 2014



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019 3617490101118*

STATE OF NEW MEXICO  
COUNTY OF RIO ARIBA  
FIRST JUDICIAL DISTRICT COURT

VINCENT PACELY,

Plaintiff,

v.

No. D-117-CV-2011-00573

MARK LOCKETT,

Defendant.

**SUMMONS**

TO: Mark Lockett  
13045 North Woosnam  
Oro Valley, A.Z. 85755

Defendants( ): Greeting:

You are hereby directed to serve a pleading or motion in response to the Complaint within 30 days after service of the Summons, and file the same, all as provided by law.

You are notified that, unless you so serve and file a responsive pleading or motion, the Plaintiff(s) will apply to the Court for the relief demanded in the Complaint.

Attorney or Attorneys For Plaintiff:

Jason Bowles

B.J. Crow

Address:

BOWLES & CROW

Post Office Box 25186

Albuquerque, New Mexico 87125-5186

Telephone: (505) 217-2680

WITNESS the Honorable Sherri A. Raphaelson, Judge of said Court of the State of New Mexico and the Seal of the District Court of said County, this December 1, 2011.



STEPHEN T. PACHECO  
CLERK OF THE DISTRICT COURT

BY: Maria Zamora  
Deputy

EXHIBIT

**B**

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STATE OF NEW MEXICO )  
                          )ss.  
COUNTY OF \_\_\_\_\_ )

## RETURN FOR COMPLETION BY SHERIFF OR DEPUTY:

I certify that I served the within Summons in said County on the 14<sup>th</sup> day of December, 2011, by delivering a copy thereof, with copy of day of Complaint attached, in the following manner:

## RETURN FOR COMPLETION BY OTHER PERSON MAKING SERVICE:

I, being duly sworn, on oath, say that I am over the age of 18 years and not a party to this lawsuit, and that I served the Summons, complaint, and Jury Demand attached, in said County of the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by delivering a copy thereof, with copy of Complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

To Defendant \_\_\_\_\_ (used when Defendant receives copy of Summons, is read Summons or Complaint or refuses to receive Summons or hear reading.)

To \_\_\_\_\_, a person over the age of 15 years and residing at the usual place of abode of Defendant \_\_\_\_\_, who at the time of such service was absent therefrom.

By posting a copy of the Summons and Complaint in the most public part of the premises of Defendant \_\_\_\_\_ (used if no person found at dwelling house or usual place of abode.)

To \_\_\_\_\_, an agent authorized to receive service of process for Defendant \_\_\_\_\_.

To \_\_\_\_\_, (parent) (guardian) of Defendant \_\_\_\_\_ (used when Defendant is a minor or an incapacitated person.)

To \_\_\_\_\_, name of person title of person authorized to receive service (used when Defendant is a corporation or association subject to a suit under a common name, a land grant board to trustees, the State of New Mexico or any political subdivision.)

Fees:


  
Signature of Private Citizen Making Service

SHERIFF OF \_\_\_\_\_  
COUNTY State of New Mexico

Subscribed and sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 2011

Sheriff \_\_\_\_\_

Notary or Other Officer  
Authorized to Administer Oaths

By: \_\_\_\_\_  
Deputy \_\_\_\_\_

Title \_\_\_\_\_

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DISTRICT COURT CLERI  
11/29/2011 9:24:37 AM  
STEPHEN T. PACHECO  
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STATE OF NEW MEXICO  
COUNTY OF RIO ARRIBA  
FIRST JUDICIAL DISTRICT COURT

VINCENT PACELY,

Plaintiff,

v.

No. D-117-CV-2011-00573

MARK LOCKETT,

Defendant.

### COMPLAINT FOR PERSONAL INJURIES

Plaintiff Vincent Pacely, for his cause against the defendant Mark Lockett, states and alleges as follows:

#### Parties

1. Plaintiff Vincent Pacely was, at all times relevant to this Complaint, a resident of Otero County, New Mexico.
2. On information and belief, Defendant Mark Lockett was, at all times relevant to this Complaint, a resident of Pima County, Arizona.
3. The acts and occurrences giving rise to this complaint occurred in Otero County, New Mexico.
4. This Court has jurisdiction over this action and the parties, and venue is proper in this district.

#### General Allegations

5. On September 1, 2011, Plaintiff was riding his 2003 Honda motorcycle Eastbound on U.S. Highway 70 in Otero County, New Mexico at approximately 8:00 p.m.

6. Plaintiff is a 27 year veteran of the United States Air Force.
7. Plaintiff was employed as a F-22 crewman and was stationed at Holloman Air Force base.
8. He was riding with several other riders who were behind him.
9. Plaintiff had his headlights and taillights illuminated.
10. Plaintiff stopped and positioned his motorcycle in the median in order to wait for the other riders.
11. It was a flat area.
12. Defendant came along behind him at a high rate of speed in a white 1991 Porsche and swerved into the median striking the rear of Plaintiff's motorcycle.
13. Defendant crossed over the lane line in doing so.
14. Due to the actions and/or inactions of Defendant, Plaintiff's vehicle was totaled, and he suffered severe personal injuries including, but not limited to, losing his left leg above his knee, losing his right leg below his knee and Plaintiff was in a coma for an extended period of time.

**COUNT I- NEGLIGENCE**

15. Plaintiff incorporates by reference, as if fully set forth herein, all allegations in the preceding and succeeding paragraphs.
16. At all times relevant to the allegations of this Complaint, Defendant had a duty to act as a reasonable and prudent motorist.
17. Defendant breached this duty and was negligent.
18. Defendant's negligence was a proximate cause of the collision and the

Plaintiff's damages.

19. Defendant's negligence includes, but is not limited to the following:
  - a. In failing to keep a proper lookout;
  - b. In failing to make timely application of his brakes;
  - c. In failing to avoid Plaintiff;
  - d. In driving too fast;
  - e. In crossing into the median and striking Plaintiff's vehicle.
20. Each of the above acts and/or omissions were singularly and/or cumulatively a proximate cause of the occurrence in question and the resulting injuries and damages sustained by Plaintiff.
21. As a direct and proximate cause of Defendant's negligence, Plaintiff was severely injured.
22. As a direct and proximate result of Defendant's negligence, Plaintiff is entitled to all damages allowable under law.

COUNT II-NEGLIGENCE PER SE

23. Plaintiff incorporates by reference, as if fully set forth herein, all allegations in the preceding and succeeding paragraphs.
24. Defendant violated several laws and/or regulations.
25. Defendant violated Statutes 66-7-301, et seq. N.M.S.A. by failing to obey the various safety protections therein: specifically, but not limited to, driving at an inappropriate speed, failing to keep a lookout, driver inattention, and failing to maintain traffic lanes.
26. These statutes are in effect in order to protect persons such as Plaintiff

from injuries.

27. Defendant's statutory violations directly and proximately caused Plaintiff's damages and injuries.
28. Defendant is negligent per se based on these statutory violations.
29. As a direct and proximate cause of Defendant's negligence, Plaintiff was severely injured.
30. As a direct and proximate result of Defendant's negligence, Plaintiff is entitled to all damages allowable under law.

#### PUNITIVE DAMAGES

31. Plaintiff incorporates by reference, as if fully set forth herein, all allegations in the preceding and succeeding paragraphs.
32. Defendant's actions were malicious, willful, reckless, wanton, fraudulent, or in bad faith.

For the reasons set forth herein, Plaintiff prays for judgment against Defendant as follows:

1. reasonable compensation for his actual/consequential damages;
2. his costs herein;
3. pre and post-judgment interest;
4. punitive damages; and
5. any other relief the Court deems just and proper.

Wherefore, Plaintiff prays the Court for a judgment that Defendant is liable to Plaintiff for damages sufficient to compensate Plaintiff for his damages, injuries and losses; for punitive damages in accord with Defendant's conduct that was maliciously

intentional, fraudulent, oppressive, committed recklessly and with a wanton disregard of the plaintiff's rights; pre and post judgment interest on any such monies awarded; the costs of this litigation; and such other relief as may be deemed just.

Respectfully Submitted,

/s/ Jason Bowles  
Jason Bowles  
B.J. Crow  
Bowles & Crow  
Attorneys for Plaintiffs  
Post Office Box 25186  
Albuquerque, New Mexico 87125-5186  
Telephone: (505) 217-2680  
Facsimile: (505) 217-2681

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STATE OF NEW MEXICO  
COUNTY OF RIO ARRIBA  
FIRST JUDICIAL DISTRICT COURT

VINCENT PACELY,

Plaintiff,

v.

MARK LOCKETT,

No. D-117-CV-2011-00573

Defendant.

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JURY DEMAND

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Plaintiff, by and through his counsel of record, Bowles & Crow, hereby demands a six (6) person jury in the above-captioned matter. Filed with this jury demand is a check in the amount of one hundred and fifty dollars.

Respectfully Submitted,

/s/ Jason Bowles  
Jason Bowles  
B.J. Crow  
Bowles & Crow  
Attorneys for Plaintiffs  
Post Office Box 25186  
Albuquerque, New Mexico 87125-5186  
Telephone: (505) 217-2680  
Facsimile: (505) 217-2681

# New Mexico Courts

## Case Lookup

[Exit](#)[Name Search](#)[Case Number Search](#)[DWI Search](#)[Case Detail](#)**Vincent Pacely v. Mark Lockett****CASE DETAIL**

CASE NUMBER	CURRENT JUDGE	FILING DATE	COURT
D-117-CV-201100573	Raphaelson, Sheri A.	11/29/2011	TIERRA AMARILLA DISTRICT

**PARTIES TO THIS CASE**

PARTY TYPE	PARTY DESCRIPTION	PARTY #	PARTY NAME
D	Defendant	1	LOCKETT MARK
P	Plaintiff	1	PACELY VINCENT

**CIVIL COMPLAINT DETAIL**

COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISPOSITION	DISPOSITION DATE
11/29/2011	1	OPN: COMPLAINT		
COA SEQUENCE #				
COA DESCRIPTION				
1	Tort: Personal Injury Auto			
PARTY NAME	PARTY TYPE	PARTY #		

**REGISTER OF ACTIONS ACTIVITY**

EVENT DATE	EVENT DESCRIPTION	EVENT RESULT	PARTY TYPE	PARTY #	AMOUNT
12/01/2011	SUMMONS ISSUED				
	To: Mark Lockett				
11/29/2011	JURY DEMAND 6 PERSON				
	Jury Demand				
11/29/2011	OPN: COMPLAINT				
	Complaint for Personal Injuries				

**JUDGE ASSIGNMENT HISTORY**

ASSIGNMENT DATE	JUDGE NAME	SEQUENCE #	ASSIGNMENT EVENT DESCRIPTION
11/29/2011	Raphaelson, Sheri A.	1	INITIAL ASSIGNMENT

[Return](#)[Print](#)

STATE OF NEW MEXICO  
COUNTY OF RIO ARRIBA  
FIRST JUDICIAL DISTRICT COURT

VINCENT PACELY,

Plaintiff,

vs.

No. D-117-CV-2011-00573

MARK LOCKETT,

Defendant.

**NOTICE OF FILING NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that Mark Lockett, Defendant in the above-styled matter, has filed a Notice of Removal in the United States District Court for the District of New Mexico. A true and correct copy of the Notice of Removal, attached to this Notice as Exhibit "1", was mailed to:

Jason Bowles  
B.J. Crow  
Bowles & Crow, P.A.  
P.O. Box 25186  
Albuquerque, NM 87125-7530

this 17th day of February, 2012.

Electronically Submitted,

ALLEN, SHEPHERD, LEWIS, SYRA  
& CHAPMAN, P.A.

/s/ Christopher P. Winters

Daniel W. Lewis  
Christopher P. Winters  
Attorneys for Defendant GEICO  
P.O. Box 94750  
Albuquerque, NM 87199-4780  
(505) 341-0110

